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The EDITH *and* LORNE PIERCE
COLLECTION *of* CANADIANA



Queen's University at Kingston



THE BRITISH AND AMERICAN
CONSTITUTIONS

AN ADDRESS

BY

Rt. Hon. Sir WILFRID LAURIER,
K.C.M.G., P.C., LL.D.

TO THE

WOMEN'S CANADIAN CLUB OF MONTREAL.

27 OCTOBER, 1909



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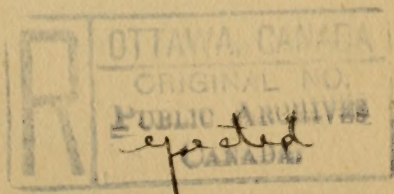
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The British and American Constitutions.

Lady Drummond, Ladies and Gentlemen:—For the honour, which is now mine, of being your guest, I am chiefly indebted to the Secretary of the Club, Mrs. Wilson Reford. My young and charming friend persuaded me to open the meetings of this Club during the present season, and I deplore her absence, therefore, more than anyone else at this hospitable board. My young friend also persuaded me that an exposition of the leading features of both the British and the American Constitutions to a Canadian audience, considering that our own Constitution was modelled after both, would not be purely academic, but might be of present and living interest. My object, therefore, in appearing here is to lay before you, in as concise a manner as the subject will permit, the principles which characterize, which differentiate, and which, at the same time, are common to both the British and the American Constitutions. It would be a very trite and oft repeated observation were I to remark at the outset that the British Constitution is not a written instrument. No! It is not to be found anywhere in book form; it never was congealed in frigid and rigid sentences spread on paper or parchment; it is a living thing, always growing, always susceptible of improvement, always adaptable to the ever-varying changes and needs of the nation, but so strong and so enduring that while, during the last century, the whole of the Continent of Europe was convulsed by Revolutions, while Constitutions and Dynasties went crashing and tumbling down, the atmosphere of England was as calm and reposeful as the flight of the eagle in a clear summer sky. The only book in which any record is to be found of the British Constitution is the History of England. In that history from the first to the last page you will find the evolution of the principles which were at first controverted but finally accepted, and which, one by one,

have brought the British Constitution to what it is to-day, the most noble code of Political Wisdom that ever was devised by man for the government of man. But I should observe at the outset that all the countries which, at the present moment, constitute the fairest portions of Europe, are fragments of the once great Roman Empire. Italy, France, England, the Iberian Peninsula, the noble Valley of the Rhine, the beautiful Valley of the Rhone; all these countries were, at one time, under the domain of Imperial Rome. The day came when the mighty fabric tumbled to pieces as much under the weight of its concentrating as by the efforts of Northern Barbarians, and for several centuries the condition of Europe was chaos. From this confusion arose, not the Europe of the present time, but feudal Europe, to be again followed by the Europe as we have known it during the last few centuries. When the Northern tribes burst the frontiers of the Roman Empire, the rich provinces which composed it were cut up and divided amongst the invaders. These new territorial divisions became the possessions of the most successful soldiers and at the head was the most renowned soldier of all. He was the King, but his powers as such were rather vague and undefined; he was more a military Chief than a Civil Ruler. His office, if office it were, was not hereditary but elective; he was simply the first among his equals. He was elected by his own companions and the position to which he was elected he held for life unless he was displaced by a more successful rival, and the powers which he executed for the guidance of the community were subject to the advice of a Council selected from the tribe. Then the same thing took place among all the countries of Europe. Whenever in any place there arose a strong ruler to dominate and overawe his companions, he rudely set aside the election of a successor and divided his estates and realm, or the community, such as it was, amongst his children. That was the course of Charlemagne; that was the course of William the Conqueror. This division, or cutting up of states, which, under a strong ruler, might have reached a high state of unity and strength, was, of course, a source of weakness. A new modification

took place and finally the crown was placed on the head of the Sovereign's eldest son. This was the origin of hereditary monarchy in Europe. Then in every country except England, the same thing took place. The King discarded all check upon his authority. He became absolute. His will was the law, and his word executed the law. This took place everywhere, as I have said, except in England. Listen to the language of the King of France, Louis the XIV., written for the guidance of the young prince who was to be his successor: "France is a monarchical state in the full acceptance of the term. The King represents the whole nation, and each person represents only an individual towards the King. Consequently, all power, all authority are in the hands of the King, and there can be none other in the Kingdom than that which he himself sets up. The nation is not a separate entity in France; it is wholly in the person of the King."

This language was accepted by the people of that age, much as it may shock our ideas as British subjects. Such was the rule in France; such was the rule in every country in Europe, England alone excepted. It must not be supposed, however, that the Kings of England were of different and better clay than the sovereigns of the rest of Europe; they were human, and very human. The Norman Kings, the Plantagenets, the Tudors, the Stuarts, were all as fond of arbitrary powers as the other sovereigns who ruled in Europe, but here was the difference. In Europe, the assumption of despotic authority by the King, may have been more or less resisted at first, but in the course of time it grew and at last was tamely submitted to; but in England, at all times and by all classes, all attempts at unbridled authority by the King were met by determined, unflinching and unconquerable resistance.

In all the tribes which invaded the Roman Empire, the Angles in Great Britain, the Franks in Gaul, the Goths in Spain, and the Lombards in Italy, there was very little civil Government, but there was some rude system of representation to transact the business of the community. In every country in Europe, save England, this system of representation was

gradually done away with, was set aside by the ruler, but in England, the first crude system of representation grew and developed in power and in influence, until it became the parliament; the Parliament of England; the pride of all British subjects in all parts of the world, and alike the envy and the aim of all friends of freedom, law and order, all the world over. It was by this nascent parliament that the ambition of Kings was checked, and this was done through the principle which was asserted almost with the origin of the monarchy in England, that in the realm of England, the King has no power to levy taxation upon his subjects, except by the consent of his subjects. This was a bold principle in the middle ages when the doctrine was prevalent of the ever-growing omnipotence of the King, of the annointed of the Lord, as the phrase was then current. That principle bred in the people of England, a strength of character and a spirit of freedom which was not then to be found in any other race. It was, as I have said, the nascent parliament of England which checked the powers of the King, and I am bound to say that the sovereigns of those days cast a covetous eye upon the prerogatives of the other monarchs of Europe who could tax their subjects at their own sweet will, and to their hearts' content.

That principle was the cause of a long struggle between the Kings and the Parliament, which lasted, with various fortune, until the days of Charles the First, when Parliament asserted it, not only by resolutions, not only by speeches, but when they embodied it in a Statute to which the King ungraciously assented, and from which he vainly sought to escape. The principle was established in the Statute of 1641, and asserted that it was:—

“The ancient right of the subjects of this Kingdom, that
“no subsidy, custom, impost, or any charge whatsoever ought
“or may be laid or imposed upon any merchandise exported
“or imported by subjects, denizens or aliens without common
“consent in parliament.”

And this is the first cardinal principle of the British Constitution, that the King has no power of taxation except

by the common consent of Parliament. You may ask me what, in those early days, was the composition of Parliament? It was exactly as it is to-day, composed of hereditary Peers and the Elected Commoners. There was no difference, save that in those early days the Lords and the Commons sat together. There was only one House. How the House was afterwards divided into two Houses—one the House of Lords and the other the House of Commons—is a matter of history, which I need not dilate upon, suffice to say that for the five hundred years which have elapsed since the days of Edward the Third, the legislative power of England has resided in the King, the Lords, and the Commons—the three estates of the Realm. In other words, no law can be passed in England, except by the consent of the three entities composing the Parliament, the King, the Lords and the Commoners. There is perfect equality. They have as much power, the one as the other, excepting in matters of finance, where it has long been recognized; at all events, the Commons have long claimed that they have the initiative power, and that the Lords have no right whatever to change or to amend their measures, but must reject or approve them, just as they are, and they can go no further. This is the second principle of the British Constitution: that the legislative power resides, not in the King, as was the case in ancient France, and in many countries of Europe, but in the three estates of the Realm, the King, the Lords and the Commons. Now with regard to the Executive power in every civilized nation, it is vested in the Chief Magistrate, and, in England, the Chief Magistrate is the King, but under the present system the exercise of the executive power is subject to a condition which is absolutely unique, which was never found in any nation until it was adopted in England, and that is that the King, in the exercise of his Executive power, is subject to the will and the control of Parliament. Even the most despotic King must have Ministers. He cannot do everything himself in connection with any of the great departments of State, but he appoints Ministers who carry on the business and advise the sovereign or president, as the case may be. It would be natural—the King having

appointed his Ministers—that his Ministers should be responsible to him. So it was for many centuries and ages in Great Britain, but when the long contest which took place between the British Parliament and the King, over the legislative power, had been closed, Parliament advanced a step further. It was found, by the course of events, that if the Ministers of the King were not in close sympathy with the majority in Parliament, they could easily baffle the will of Parliament, as expressed in the Law, and, therefore, Parliament advanced the doctrine that the King must be served by Ministers who were in sympathy with the elected representatives of the people, and responsible to them. This principle was not adopted in a day. It was strongly resisted by the Crown. In fact, it was only in the early years of our late Sovereign, of that great, good and wise woman, Queen Victoria, that the principle was at last fully admitted, recognized and acted upon. This principle was as distasteful to the Georges as the other principle of taxation by the consent of the people had been distasteful to the Plantagenets, to the Tudors and to the Stuarts, but to-day it is fully recognized. The moment a Ministry has ceased to command the majority in Parliament, they must make way for other men, and even then the Sovereign is not free to select anybody he pleases to take their place; he must choose men who are in sympathy with the Parliamentary majority. This, Ladies and Gentlemen, is the third great cardinal principle of the British Constitution. I have named you three; first, no taxation except by the consent of Parliament, no legislation except by the consent of the three estates of the Realm, no Executive Authority except with the consent of Parliament.

Now, I am bound to say, in truth and in justice to History, that the merit of first checking the ambition of the Sovereign, the merit of first planting the seed of constitutional government does not belong to the class which we to-day call “the people,” but it belongs to the Barons, to the Lords, to the aristocracy of Britain. Under the feudal regime in every country in Christendom, the great land proprietors were almost as strong and powerful as the King himself. In France, Hugues Capet,

who was the first King of the French after the fall of the Carolingian Dynasty, once said to a subject who had taken the title of Count:—"Who made thee Count?" The insolent rejoinder was: "Who made thee King?" In England, during the reign of Edward the First, the King desired the Earl of Norfolk to take part in an expedition to Gascony, and the latter peremptorily refused. The King in a fit of petulant passion, exclaimed "By God, Sir Earl, you will go or hang." The cool answer was: "By God, Sir King, I shall neither go nor hang." The spirit of resistance was the same in France as in England, but it perished in the first whereas in the latter country it remained a flame which never was extinguished and permeated the whole body. All honour, I say, to the aristocracy of England. History does not record a class which has done better service for the State, and which can boast of more illustrious fame. Happy England, if the nobles of the 20th century, faithful to the traditions of the past, in the new principles which come up under new conditions, will stand, as their forefathers, in the vanguard of freedom and reform. By the side of the Lords arose the Commons. The Commons at first were recruited from the landed gentry and the town burgesses. It remained so for many centuries. In 1832, there was a Bill of Reform followed by several similar measures in quick succession, which extended the franchise until now, in Great Britain, the right to vote is given to every respectable wage earner, and that country has come to the day of Democracy. Happy England, if her Democracy remember that moderation in triumph is the keynote to stability and progress, and that what has made England what she is to-day, is not Revolution, but Evolution and Reform. The British Constitution is the result of a process of Evolution; the application of a few leading principles, supplemented by maxims, rules and precedents—too long to enumerate—which have grown with the ages, determined one at a time, and all tending towards one single object; the Government of the people by the people themselves. How true are the words of Tennyson, in my estimation the most English of all the

English poets since the days of Shakespeare, when he thus summarized the blessings of England's free institutions:—

You ask me why, tho' ill at ease
Within this region I subsist,
Whose spirits falter in the mist,
And languish for the purple seas.

It is the land that freemen till,
That sober Freedom chose;
The land, where girt with friend or foes,
A man may speak the thing he will.

A land of settled Government,
A land of just and old renown,
Where freedom slowly broadens down
From precedent to precedent.

Where faction seldom gathers head,
But by degrees to fullness wrought,
The strength of some diffusive thought,
Hath time and space to work and spread.

No better definition of the British System has ever been written than is contained in these beautiful lines. During the last century, the great American Statesman, Daniel Webster, was a visitor in the old city of Quebec. At that time there was a detachment of the English Army doing garrison duty in that Gibraltar of the American Continent. One evening the ears of Webster were saluted by the tattooing of the English troops, and a thought crossed his mind which, shortly afterwards, in a speech delivered in Congress, he expressed in these words—Speaking of England he said it was:—

“A power, to which, for purposes of foreign conquest
“and subjugation, Rome, in the height of her glory, is not to
“be compared; a power which has dotted over the surface of
“the whole globe with her possessions and military posts,

“whose morning drum-beat, following the sun and keeping
“company with the hours, circles the earth with one continuous
“and unbroken strain of the martial airs of England.”

This beautiful language graphically expresses the power which has been reached by the small Island whose modest beginning has just been explained. If to-day Webster were to speak upon the same subject, if he could gaze upon what we to-day see with our own eyes, and were to descant upon the same subject, with what images could he describe the power of England. He could speak of her, not as encircling the globe with her garrisons, but as the centre of a group of daughter nations who have found in the adoption and application to themselves of the British Constitution, not only a charter of liberty, but a closer bond of union with the Motherland. Proud as we may be as British Subjects, of these achievements of a country to which we belong, there is another respect in which, it seems to me, the British Subjects can derive still greater pride. The British Constitution in another way encircles the globe. It has been carried over the globe not only by British hands, but by friends and lovers of Liberty. During the last century, all the nations of the Continent of Europe have been convulsed by Revolutions in the struggle of the people for liberty, and they found it at last in the application to themselves of the British Constitution. France, Italy, Spain, Portugal, Germany, Austria, Hungary, Greece, Denmark, Norway, Sweden, all these countries have adopted, in whole or in part, the British Constitution. At all events, those which have not adopted it entire, have adopted those two cardinal principles “No taxation except by the consent of the people, and ministerial responsibility.” Nor, is that all. These great principles have crossed the farthest oceans, and by them the dormant civilization of the Orient has been quickened to life. Japan has adopted it, and by doing so it has jumped at one bound into the highest rank in peace and war, and even the Empire of Turkey itself, the decadent power, the sick man, as Lord Palmerston used to call it, is seeking, and may find in the British Constitution, regeneration. And,

Ladies and Gentlemen, there is one power that has also adopted the British Constitution, and it is the most illustrious of all, that is, the American Republic.

When the thirteen Colonies violently rent themselves from the Motherland, they paid her the compliment of incorporating in the Constitution which they afterwards adopted for themselves, almost in its entirety, with few exceptions, the principles of the constitution of the Old Country, as far as they could apply them to their new conditions as a Republic. I am in honour bound to say that wherever they departed from it, they did not improve, but rather weakened their condition, and I claim for the Constitution of Great Britain, that it is more elastic, more practicable, more amenable to the public weal, and therefore, more democratic than the Constitution of the American Republic. In so far as legislative power is concerned, there is absolutely no difference at all; it is the British Constitution entire under different names. They have a Parliament; the Parliament is called Congress; it is composed of two Houses, not, of course, the Lords and the Commons, there are no Lords in the United States, except the moneyed Lords, the moneyed barons, perhaps, but they have the House of Representatives and the Senate. The head of the nation, the President, is elective, and all legislation must be consented to, to be effective, by the House of Representatives, the Senate, and the President. This is exactly the same as legislation by the King, the Lords, and the Commons. Insofar as the executive power is concerned, it is vested in the President, but here arises the first radical departure between the American Constitution and the British Constitution. There is no Ministerial responsibility in the United States. The President is elected for four years, and during those four years, he is the head, the executive power; he is absolutely beyond the control of parliament. The people who have elected him have no control over him, and the Congress which passes the laws have no power over him; he is absolutely supreme, and if he does anything wrong in the eyes of the nation, there is no force whereby he can be set right. Now, I am very sure in this respect, that our

Constitution is far superior to the American Constitution. The American publicists, however, have an answer to this. They tell us that the theory of their constitution is different from ours; that their theory is, that the whole scheme of Government is divided among three different branches, the legislative, the executive and the judicial, and that each one is absolutely independent in its own sphere. Well, one has to recognize that this is a bold and noble conception that every branch of the Government should be absolutely independent, and that it can move unchecked within its own sphere, yet I submit that while this view is spectacular, it is not as practicable as our own. I understand that in a speech of the kind I am now delivering, I must eschew everything which would even approximate to politics, but I do not think I will commit a very grave breach of this rule, if I tell you that there was an election in Canada, in the year 1896, and there was also one in the United States. It so happened also, and I will not defend my reference to it, that the result in each country was, that the party in office was defeated. Well, in Canada, within three weeks after the verdict of the people had been recorded, a new administration had been called to, and installed in office, whereas in the United States the verdict was rendered in the first week of November, but the new administration was not installed until four months after. It took four months in the United States, where they have the reputation of being prompt, quick and sharp, to do what we did on this side of the line in three weeks. Now, if the object of the Constitution, both in Canada and the United States, is to have a Government of the people, by the people, and for the people, as Lincoln called it, if the object is to have the will of the people carried into effect, everybody must admit that our system of Ministerial responsibility is far more effective, more prompt, and far less liable to friction than in the American system. I admit that in times of peace, in times of moderation, under ordinary circumstances, where no irritating question is before the people, this might not indeed present any great inconvenience, except that it would, perhaps, jar a little upon the impatience of the victors, but when there is

before the people some question which has wrought great excitement, when popular passions have been aroused to a very high pitch, I submit with all due deference for the opinion of our American friends, that their system is liable to very serious danger. And here again, I will give you a complete example, perhaps the American publicists would differ from me, but there was a time, I may say, when they might have thought different and that was after the election of Abraham Lincoln in 1860. That election had been fought upon the question of slavery; the programme of the Republican party who carried the election, was a very moderate one; it did not propose to deal with slavery, where slavery existed then; but its whole programme was confined to this: that they would not allow any extension of slavery, beyond those limits in which it then existed. To such a pitch, however, were the passions aroused at that time, that the slavery power in the United States, in the South, to which it was then confined, threatened, during the elections, that if Abraham Lincoln were elected they would rend the Union, and, after the election had taken place, they proceeded to put their threat into execution. State after State seceded from the Union. The out-going President, James Buchanan, was an honest man, but a weak character. He was surrounded by traitors who took advantage of the last days of the out-going Government to facilitate the conspiracy of the Slave Power. The President-elect, Abraham Lincoln, was absolutely powerless to interfere, he was an impotent spectator of this work of destruction, and could not as much as lift a finger to prevent it. I cannot but believe that at that time the American Statesman regretted that they had not the System of Ministerial responsibility, such as prevailed under the British Constitution, under which Abraham Lincoln would have been placed in office in three weeks, and how much blood and treasure would have been saved had Abraham Lincoln been more promptly placed in the position to which the voice of the people had called him. There is another and still more striking example to be found in the period of reconstruction which followed the Civil War. The policy of Congress and the policy of the President on the

problem of reconstruction were at total variance. It is no part of my present purpose to consider who was in the right or who was in the wrong, but under the British System the policy of Congress would have easily prevailed. The first vote of want of confidence in the House of Representatives would have, at once, compelled a change of Ministry and forced the policy which Congress had in mind. But, under the System which then existed, the President was in office for four years. He was absolutely free from control; he could baffle the will of Congress, and Congress was powerless. Again, I am led to believe that the Leaders of Congress at that time—Sumner, Stephens, Wade—more than once regretted that the Fathers had not adopted the British System which would have made it so easy for Congress to carry on its policy. As it was, discord, almost akin to Civil War, resulted from the differences between Congress and the President. At last Congress resorted to the extreme process of impeachment against Johnson. The impeachment could not carry; it was defeated even by some of the Leaders of the Republican Party, because it was felt that Johnson had committed no crime, but was exercising the very powers invested in him by the Constitution; he was acting according to his own light, and, therefore, if blame there was, the blame was with the system. In this respect I think we, British Subjects, can claim that our Monarchical Constitution is more practicable than the Republican Constitution of the United States. There is, however, one particular in which I think the American Constitution is superior to our own. No! I should not say our own, because in our Canadian Constitution we have the best of both the British and American, but there is a particular as to which the American Constitution, in my humble judgment, is superior to the British; the American Constitution is a Federative Union, whereas the Constitution of the United Kingdom is a Legislative Union. We understand by Federative Union a union of State Entities, each one endowed with a Legislative Power to deal with local questions and a central Government embracing, and legislating for, the whole on questions which affect the whole. Perhaps, at the first glance,

someone may think that a Constitution in which there is a division of legislative authority has not the element of strength of the more compact legislative union. To this I would say that the experience of the world goes to show rather that a Federative Union is the most potent instrument of Government to unite communities which have been heretofore divided either by ethnical differences, geographical distances or historic estrangements. I would go further and say that the Federative System is a counter poise to the danger of over centralization in a perfectly homogeneous community spread over a large territory. The Americans adopted a Federative Union and in doing this, I believe they built better than they knew, because its adoption was more a matter of necessity than of choice. It is a matter of history that after the War of the Revolution there was, in the emancipated colonies, a disinclination to unite under a single strong government. They preferred to keep up among themselves the loose ties which had been hastily patched up at the commencement of the war, and it was only through the efforts of the best minds of that day that they, at last, adopted the Union. The American Republic is to-day so united, so strong, so proud—and so legitimately proud—of its glorious past and its colossal future, that it is almost a matter of surprise that there should have been so much difficulty at the outset to unite it. Such was the case, however, and it is not difficult to comprehend, if we remember the conditions which prevailed at the time of the War of the Revolution. The thirteen colonies which separated in 1776 from Great Britain were not identical, except in origin and in allegiance. Each one had been granted a separate charter and each had a separate organization. There was among them very little communication and hardly any commerce. What little commerce there was, was simply the ready exchange of rough commodities over the borders of contiguous states. Great Britain forgot her own history and attempted to tax these Colonies against their will, against their consent, and in so doing struck a spark which at once produced a conflagration. The attempt produced upon these Englishmen of the new world, the same result which similar

attempts had always caused upon Englishmen of the old world; it developed a spirit of unconquerable resistance. These men at once found out that they were of the same blood, the same kith and kin, and they organized to repel the coming danger, but as soon as that danger had been repelled, each State wanted to revert to its independence and its separate existence. It was, as I repeat, the best efforts of the best men of that day which, at last, resulted in the introduction of the Union. The men to whom Americans are indebted for the carrying out of a Union as it exists to-day are, George Washington, Alexander Hamilton, John Marshall, Daniel Webster and Abraham Lincoln. The United States has been fortunate, perhaps beyond any other Nation, in producing at the right moment the right man to deal with the problem of the day. George Washington was pre-eminently such a man. He had been a successful leader of his country in the struggle for independence, and undoubtedly it was through his authority, that the Convention of States at last took place which framed the Constitution. It was the dignity and equipoise of his character, his sound judgment, his high conception of public duty, his lofty impulses and his pure disinterestedness which carried his countrymen into a course as to which they had many misgivings. Another man, whom for my part, I look upon as one of the great men of the world, • was Alexander Hamilton. Alexander Hamilton was not a son of the young Republic by birth, but by adoption. He had been born in the British West Indies, in the small Island of Nevis, from a Scotch father and a French Huguenot mother. When he was still a very young child, he was sent to New York, to complete what little education he had received. That was just at the beginning of the Revolution, and he adopted its principles as his own with enthusiasm, and, although he was a mere boy, hardly twenty years of age, he served with credit during the whole war. As a child he had been almost a phenomenon of precocity, as a man he was almost a phenomenon for his strong and varied abilities. During his too short career he was in turn a soldier, a publicist, a lawyer, and a writer of eminence. He was one of the three delegates sent

by the State of New York to the Convention for framing the Union, but he received no assistance whatever from his colleagues, who were against the Union and abandoned their posts. He was left by himself to represent the State of New York. He proved himself far in advance of any other one in his bold conceptions of Government. If his voice had prevailed, the American Union would have been made federative, as it was made, but with a far stronger Central Government. But the truth of the matter is that his views did not prevail entirely. With the true instinct of statesmanship, though disappointed when the Constitution had been signed, he threw himself into the breach, and by his pen, and by word, he explained and defended it, and to this day his writings are, and deservedly so, accepted by his fellow-countrymen as the law and the Gospel. In the work of the convention of the State of New York, his own state, valuable as had been his services in the other convention, his services were still more valuable. The State of New York, at that time, was led by a man, George Clinton, an able man, a shrewd man, a clever manager of political affairs, who was opposed, absolutely and entirely and without compromise, to the Union, and who succeeded in the Convention, which was called by the State, in electing, out of the sixty-five representatives who composed it, forty-six who, like himself, were pledged against the Union. Hamilton went to the Convention with these figures before him, and he wrote to a friend: "Two-thirds of the Convention and four-sevenths of the people are against us." That was not a cheering beginning, but in those words there is not the impression of failing courage, but rather the exulting spirit of a strong man, armed in the justice of a great cause, and events showed he was right. The work of the labours of the convention commenced. Hamilton was on his feet day after day to explain the Constitution, article by article, and to try and convince and to communicate his own enthusiasm to his fellow-members, and then took place a sight which is very seldom seen in elective assemblies. The leader of the forces on the other side, the anti-union man, Melancthon Smith, a man also of great ability and force of character,

came forward and declared that he had been convinced by the arguments of Hamilton, and that he would vote for the Union.

I have been in Parliament for a long time now; I have seen many a debate where I thought the argument had penetrated and carried conviction, but I did not see conviction expressed by the other side. I remember in the old time, in the time of Sir John Macdonald, that a member who then represented the County of Ottawa, a most genial, affable man, Alonzo Wright, was one day upbraided by a friend for having voted a certain way, who said to him, "You know it is wrong." Mr. Wright replied, "Why, certainly, it was wrong, I know it, my conscience is my own, but my vote is my party's." You seldom see a man admitting that he has been convinced by argument, but to Alexander Hamilton is due the credit of having performed this miracle.

The next man in order, chronologically, is John Marshall, President of the Supreme Court of the United States, from 1801 to 1835, who was, without doubt, one of the greatest jurists of all times, and of all countries. He seemed to have had a peculiar faculty for unravelling the many problems which must arise under a Federative Constitution between the Central Government and the local Governments. He laid down the landmarks which have impressed the American Constitution so deep in the hearts of the American people, but for the final conclusion the chief credit, next to him, is due to Daniel Webster, who was one of the most powerful orators who ever lived in any country.

Goldwin Smith, a good judge, thus characterizes him:—

"As an orator of reason he had no superior if he has an equal in the English language. * * * *

"His style has been compared to the strokes of a trip hammer which his sentences resembled in measured force, but not in monotony. The majesty of intellect sat on his beetling brow, and he had the looks and port of Jove. He was and felt himself a king."

It was the eloquence of Daniel Webster which, after all, brought to the American people the first sense of their great-

ness. He was the first to proclaim that the Union was supreme, and that it was the supreme goal. All honour to the great name of Daniel Webster.

The next is Abraham Lincoln, a far different man, who, for wise, prudent, prescient statesmanship, I do not think, has an equal. It was his statesmanship that brought the country successfully through the Civil War, and from that day the supremacy of the Union has not been questioned, and the American nation has become what it is to-day.

Mr. Gladstone, in an article published many years ago, speaking of the American Constitution, wrote these words:—"The American Constitution is, so far as I can see, the most wonderful work ever struck off at a given time by the brain and purpose of man." In some respects, in many respects, perhaps I should say almost in every respect, this high encomium passed by so high an authority is not exaggerated. The American Constitution has been an instrument of freedom, of law, and of order, and I doubt if it would have been possible to carry on this immense machinery, this immense mass of men, extending all over the continent, by any other system, than by the federative system. The wonder to me has always been, that Mr. Gladstone had not found in the federative principle, the remedy which he sought, for the evil which has undoubtedly existed for several centuries, the Irish question, to the solution of which he devoted, but vainly devoted, the declining years of his life. God forbid that I should enter on this occasion, or any other occasion, on anything which might be ever so remotely connected with the question of British politics; but we are all British Subjects, we have all the interests of the Empire at heart, and we can look across the water and seek for possible remedies to those momentous problems which come within the range not of actual politics, but in the high realm of speculative thought. There is one thing which always strikes one in the position to-day of the Parliament of Great Britain. It is undoubted that it is congested, loaded and overloaded with petty interests and trifling questions. You may have one day in that august assembly—the most

august the world has ever seen—a discussion upon the fate of Empires, or the destinies of nations, or the highest concerns of war and peace; the following day a debate upon a road ditch in Wales, a loch in the Highlands of Scotland, or a piece of bog in Ireland. The greatest possible problems that ever engaged the anxious attention of legislators and the most trifling petty interests alternately engage the attention of the same men. There is something in this, it seems to me, not consistent with the sphere of action which ought to be reserved to an Imperial Parliament such as the British Parliament. I would not go further in this direction at present, but perhaps some time or other some federative system dividing legislation with regard to England, Scotland, Ireland and Wales from the higher problems of Empire, may be devised in the United Kingdom.

Ladies and Gentlemen, you will ask me: "Is there not a great advantage which the Americans have over us in the fact that their's is a written and the British an unwritten Constitution?" For my part, I must say that I do not attach very great importance either to one form or the other. Whether it is a written Constitution or an unwritten one, after all, it is the will of the people which must prevail; and though the Americans have a written Constitution, their history shows that it is possible, without changing a word of that Constitution, to so vary the spirit of it as to effectively amend it. That is the case in regard to the election of Presidents. By an enactment of the Constitution as it was originally framed, and supplemented by the twelfth amendment, the President is elected by what is called the Electoral College. Well, you would suppose it was the intention of the Constitution that these electors, selected for that purpose, great and eminent men, should proceed to the election of a President. Nothing of the kind. They have that task assigned to them but they are not free agents, they simply have to record the will of the people as it is expressed at the polls. You are all familiar with the manner in which a Presidential election is carried on in these modern days. We had such an election not very long ago, and you heard the people shouting for Taft or for

Bryan. On election day we were all looking to see who was elected; was it Taft or was it Bryan? The modern method of selection is this: A Convention of each of the parties, the Republican Convention or the Democratic selects Taft or Bryan, but the electors do not vote for Taft or Bryan, they vote for Mr. So-and-So and Mr. So-and-So, men whom they do not know and have never seen, but who have been carefully selected by the machine. The original Constitution, as contemplated by the Fathers, has been completely set aside and instead of having an election by the Electoral College, we have in reality an election by the popular vote, so that there is not much difference whether the Constitution is written or not. It can be changed tacitly.

Now, you will ask me, what conclusion is to be drawn from these comparisons? I will answer that question by saying that barring the fact that the American Union is a Federative Union, there is no possible doubt in my mind that the British Constitution is far superior to the American. But, the lines of difference are not very material after all, because the cardinal principle is that the will of the people is the supreme arbiter in one as in the other. It does not follow that public opinion is always in the right, it is very often in the wrong, but the course of history has shown us that both in Great Britain and the United States, under free Institutions, truth and justice may be for some time ignored and even impeded, but in the end it will prevail. Under those free institutions the triumph of truth and justice is generally of slow growth; it is not sudden as the conversion of Saul on the road from Jerusalem to Damascus. But, I claim that under these free institutions principles have been evolved from time to time which, though at first resisted, have at last been accepted, as emanations from truth eternal. I might give you another illustration of what I assert; that in the long run under free institutions truth and justice, however thwarted, will at last triumph, in the manner in which slavery in the United States has been dealt with. To-day, looking at the past, one can hardly conceive that slavery was not always regarded with horror as the curse of mankind, but forty years ago, when I

was a law student in the City of Montreal, the existence of slavery was a very acute question in the American Union. When the thirteen colonies separated from Great Britain, slavery, which was concentrated in the southernmost states of the Union, was legal. Six of the original thirteen states of the American Union were slave owners. George Washington, one of the greatest men of history, and a man of unblemished character, was a slave owner. Jefferson, who wrote the Declaration of Independence, and who penned the sentence that all men are equal, was a slave owner, and many of the Fathers of the American Union were slave owners. It is the plain truth of history that amongst these men there was no sympathy for slavery; they were all averse to it, and if they could have had their own way, they would have extirpated it from the Constitution, but public opinion would not allow it. When the Fathers of the American Constitution met at Philadelphia to frame an Act of Union, if they had attempted to strike out slavery from the Constitution, union would not have taken place; the Southern States would not have come into it. So the Fathers closed their eyes upon the question of slavery. They expected, however, that public opinion would move and would extinguish it, and they placed their hopes in the Article in the Constitution which declares:

“The migration or importation of such persons as any
“of the States now existing shall think proper to admit, shall
“not be prohibited by the Congress prior to the year one
“thousand, eight hundred and eight.”

The word “slavery” or “slave” was not inserted. They would not pollute such a noble instrument with such words as “slavery” or “slave”, but it was slavery which they meant under the word “migration.” They expected that, in the course of time, public opinion would move, and they were right in that opinion. Public opinion did move, but it moved in different directions; in the northern States the sentiment grew fierce against the curse and the shame of such an institution. In the South, on the contrary, the impression grew in favor of slavery, from the supposition that African

labour was a necessity of the climatic condition in the South, in a semi-tropical country. So the two currents went on and on and on, the passion growing fiercer and fiercer, and for fifty years, the best men of the United States concentrated all their efforts in devising compromise after compromise to keep the numerical balance between Free States and Slave States. In 1854, a new party was organized, the Republican Party, chiefly and only, I might say, to deal with slavery. Their programme was a very moderate one; it did not propose to extinguish slavery; it did not propose to interfere with this domestic institution of the South, as it was called, but to prevent the extension of slavery beyond its then existing limits. They put a candidate in the field in 1856, but so strong was the public feeling that this moderate programme was defeated. They put another candidate in the field in 1860, and then they won, but simply because it was a three-cornered fight. Abraham Lincoln, the Republican candidate, had not the majority of the popular vote, but simply of the electoral college. Abraham Lincoln is one of the greatest men in history—notwithstanding the comparison made by Lady Drummond between him and me. I look upon him as one of the greatest men of history. He had an intuitive and instructive discernment in political problems and, withal, he had a most tender heart, and the most humane soul. When he was a young man he had gone down the Mississippi as far as New Orleans on a business errand and he had seen with his eyes something of the cruelty, shame and degradation of slavery, and it is said that he remarked to a friend, "If ever I have an opportunity, I shall hit slavery hard." He was elected President of the United States, he was installed in office, and you might have thought he could have hit slavery hard; but he could not do it because public opinion would not permit him to do it. The Civil War broke out; it was to go on for four long years; the Northern States were invaded by the Southern armies, and even then Abraham Lincoln could not carry out his own instinct. He had to submit to contumely, and to insults, and to taunts from ardent abolitionists, but he stood the infliction and did not move until

he thought the time had come. I may, perhaps, upon this point, read you a letter which he addressed to Horace Greely, an able, passionate, petulant man, who clamorously called for the immediate enfranchisement of the slaves.

"I have just read yours of the 19th, addressed to myself through the New York Tribune. If there be in it any statements or assumptions of fact, which I may know to be erroneous, I do not, now and here, controvert them. If there be in it any inferences which I may believe to be falsely drawn, I do not, now and here, argue against them. If there be perceptible in it, an impatient and dictatorial tone, I waive it in deference to an old friend, whose heart I have always supposed to be right. As to the policy I seem to be pursuing, as you say, I have not meant to leave anyone in doubt. I would save the Union. I would save it the shortest way under the Constitution. The sooner the national authority can be restored the sooner the Union will be 'the Union as it was.' If there be those who would not save the Union unless they could at the same time save slavery, I do not agree with them. My paramount object in this struggle is to save the Union and is not either to save or destroy slavery. If I could save the Union without freeing any slave, I would do it, and if I could save it by freeing all the slaves, I would do it; and if I could save it by freeing some and leaving others alone, I would also do that. What I do about slavery and the coloured race I do because I believe it would help to save the Union. I shall do less whenever I believe that whatever I am doing hurts the cause, and I shall do more whenever I shall believe doing more will help the cause. I shall try to correct errors when shown to be errors and I shall adopt new views so fast as they shall appear to be true views. I have here stated my purpose according to my view of official duty, and I intend no modification of my oft-expressed personal wish that all men everywhere could be free."

I have quoted you this letter because it shows that in a democracy such as ours, American as well as British, public

opinion has always to be scanned and measured, and that it is possible while respecting it to lead it. Mark the way in which Abraham Lincoln at that time places the question before the country. He says it is not a conflict to save or to destroy slavery, but that it is a conflict for the Union and upon that ground he appealed to the nation, and his appeal was responded to, but, had he asked the nation to fight to abolish slavery, his appeal would have remained unheeded. Yet, at the very time that Lincoln was penning that letter, he had in his desk a proclamation already prepared for the abolition of slavery; he was biding his time, and two months later, when he thought the moment had come, he issued his proclamation. It was simply a war measure, not applicable all over the Union, but only in the insurgent States. As the war proceeded public opinion at last commenced to move, and then moved rapidly. At first the Northern people, who were adverse to slavery, out of the respect they had for the views of their fellow-countrymen in the South, had refused to interfere with it, but, when they found their country invaded, the Union jeopardized, then they were prepared to go to the bottom and to deal with slavery, and Abraham Lincoln, the keenest judge of the fluctuation of public opinion that ever lived, saw the time was ripe. He advised the Republican Convention, which met in 1864, to adopt a plank in favor of the total abolition of slavery. His advice was accepted, the plank was adopted, and in November following the principle was ratified by the people, and, in the following March, 1865, the curse and the shame of slavery was forever blotted out from the fair name of the American Republic.

Now, Ladies and Gentlemen, it may be interesting if I give you the judgment which was passed by Lincoln himself upon Slavery, its origin, its course and the responsibilities of the American people for the same. I will, therefore, if you will permit me, read you the Second Inaugural Address of Abraham Lincoln, delivered by him on the 4th of March, 1865, a few weeks before his assassination, and to me it is one of the most extraordinary papers that was ever written. I think

you will agree that in it there is a tone which—as has been observed by one of Lincoln's historians—is not far from the dignity of the ancient prophets:—

“FELLOW-COUNTRYMEN:—At this second appearing to take the oath of the Presidential office, there is less occasion for an extended address than there was at the first. Then a statement somewhat in detail of a course to be pursued, seemed fitting and proper. Now, at the expiration of four years, during which public declarations have been constantly called forth on every point and phase of the great contest which still absorbs the attention and engrosses the energies of the nation, little that is new could be presented. The progress of our arms on which all else chiefly depends, is as well known to the public as to myself, and it is, I trust, reasonably satisfactory and encouraging to all. With high hope for the future, no prediction in regard to it is ventured.

“On the occasion corresponding to this four years ago, all thoughts were anxiously directed to an impending Civil War. All dreaded it—all sought to avert it without war—seeking to dissolve the Union and divide effects, by negotiation. Both parties deprecated war; but one of them would make war rather than let the nation survive; and the other would accept war rather than let it perish. And the war came.

“One-eighth of the whole population were colored slaves, not distributed generally over the Union, but localized in the Southern part of it. These slaves constituted a peculiar and powerful interest. All knew that this interest was, somehow, the cause of the war. To strengthen, perpetuate and extend this interest was the object for which the insurgents would rend the Union, even by war; while the Government claimed no right to do more than to restrict the territorial enlargement of it. Neither party expected for the war the magnitude or the duration which it has already attained. Neither anticipated that the cause of the conflict might cease with, or even before, the conflict itself should cease. Each looked for an easier triumph and a result less

“fundamental and astounding. Both read the same Bible
“and pray to the same God and each invokes His aid against
“the other. It may seem strange that any men should dare
“to ask a just God’s assistance in wringing their bread from
“the sweat of other men’s faces; but let us judge not that we
“may not be judged. The prayer of both could not be answered;
“that of neither has been fully answered. The Almighty
“has His own purposes. ‘Woe unto the world because of
“offenses, for it must needs be that offenses come; but woe
“to that man by whom the offense cometh.’ If we shall
“suppose that American slavery is one of those offenses which,
“in the providence of God, must needs come, but which,
“having continued through His appointed time, He now wills
“to remove, and that He gives to both North and South this
“terrible war, as the woe due to those by whom this offense
“come, shall we discern therein any departure from those
“divine attributes which the believers in a living God always
“ascribe to Him? Fondly do we hope—ferverently do we
“pray—that this mighty scourge of war may speedily pass
“away. Yet, if God wills that it continue until all the wealth
“piled by the bondsman’s two hundred and fifty years of
“unrequited toil shall be sunk, and until every drop of blood
“drawn from the lash shall be paid by another drawn with
“the sword, as was said three thousand years ago, so still it
“must be said, ‘The judgments of the Lord are true and
“righteous altogether.’

“With malice toward none; with charity for all; with
“firmness in the right, as God gives us to see the right, let us
“strive on to finish the work we are in; to bind up the nation’s
“wounds; to care for him who shall have borne the battle,
“and for his widow, and for his orphan, to do all which may
“achieve and cherish a just and lasting peace among ourselves,
“and with all nations.”

I do not know how you regard it, but it seems to me that
these last words sound the loftiest note that could be struck
in politics.

Now, Ladies and Gentlemen, I have just one more word
to say and I will conclude. This is a world of evolution.

Principles are eternal, but their application eternally varies. I have shown you the Roman Empire, followed by feudal Europe and then by Monarchical Europe, and now we have entered into a new era, the era of Democracy. We cannot hope that Democracy will be free from those errors, faults and vices which are the lot of human nature, but it seems to me that there are in Democracies certain vices such as corruption, envy and jealousy, against which we must always guard. It also seems to me that we have every reason to expect that Democratic Institutions, which mean the emancipation of long suffering masses, will be more and more impregnated with those generous impulses to which the martyred President gave unequalled expression. Indeed, the force of democratic institutions has been well illustrated in the marvellous manner in which the American Republic emerged from the Civil War. Not a drop of blood was shed by the Civil Power, not a man was put upon trial for his participation in the rebellion; malice there was to none; charity there was for all, and the result is that to-day, notwithstanding the terrible cleavage caused by that Civil War which raged for four years—the most stupendous civil struggle that ever tore the bosom of any Nation—all traces of the conflict have disappeared and the Nation is united as it never was before. This, Ladies and Gentlemen, is a great and most glorious triumph, but I think that we, British subjects, can lay claim and can show a still more phenomenal triumph. It is only ten years ago this month that on the veldt of South Africa, Dutch and British met in mortal combat. It was not, as in the American Civil War, a conflict of men of the same kith and kin in which the possibility of reconciliation was made more easy on account of the same blood flowing in the veins of the combatants, and where hands were impelled to join by the thousand memories of a common history. No! on the veldt of South Africa, the conflict was between men of alien races, embittered by the stinging recollection of recent humiliations inflicted on each other. But such was the faith of those who believe in the British Constitution that, if I may be permitted to speak of myself, during a debate which took place in the House when

the War was raging, I ventured to make this prediction, speaking of the Dutch population:

"I pledge my reputation and my name as a British Subject, "that if they have lost their independence they have not lost "their freedom.

"There is but one future for South Africa, and that is a "grand confederation on the pattern of the Canadian confederation. It is a federation in which Cape Colony and Natal, and "the Orange Free State, and the Transvaal, and Rhodesia, shall "be united together under the British flag, and under the "sovereignty of England. And when they have the British "flag over South Africa, they shall have that which has been "found everywhere, during the last sixty years, under the "British flag: liberty for all; equality for all; justice and civil "rights for English and Dutch alike."

When I thus spoke, I uttered the feelings of my heart; I believed, I felt, I knew that the British Constitution would justify my words, that truth and justice would prevail and that right would be done. But, I did not expect that the problem would be solved so soon as it has been solved. Only seven years have elapsed since the close of the war, and yet, already, at this present moment that I am speaking to you, Dutch and Briton, burying and burying deep, the bitter memories of the past, have joined hands together, to bring forth under the Southern Cross, a new nation, a new star, to be added to the constellation of nations which compose the British Empire.

Ladies and Gentlemen, and this is my last word, this is the last, the most consummate triumph of the British Constitution.

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The British and American
constitutions.

